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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Wataru Nakazawa

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

CULBRETH, ERIC D

ART UNIT

PAPER NUMBER

3616

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/064,494	Applicant(s) NAKAZAWA, WATARU	
	Examiner Eric Culbreth	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the toothed washer attached to the end of the threaded fastener (claim 7) and configured to prevent the spacer from being removed from the hole of the fabric sheet (claim 6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no support in the specification for claim 6 (toothed washer configured to prevent the spacer from being removed from the hole of the fabric sheet, etc.) nor claim 8 (the toothed washer attached to the end of the threaded fastener).

Claim Objections

3. Claims 2-3, 5-9, and 11-13 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The preambles of claims 1 and 4 from which claims 2-3, 5-9 and 11-13 ultimately depend recite the invention as "an airbag and a structure for attaching the airbag to a vehicle body", but the preambles of claims 2-3, 5-9 and 11-13 refer to the invention as "the airbag". Since a dependent claim is assumed to include all the limitations it depends from, it is improper to now recite the invention as "the airbag" in the dependent claims. (The objection may be obviated by changing the preambles of the dependent claims to recite the invention as "the airbag and structure for attaching", for instance).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 6-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. .

The specification does not give an enabling disclosure of how a toothed washer attached to the end of the threaded fastener can be configured to prevent the spacer from being removed from the hole of the fabric sheet, as this washer is not even mentioned in the specification. This is especially indefinite because the washer is recited as on the fastener end preventing the spacer from being removed from the hole in the fabric sheet, but the spacer is adjacent the hole in the sheet.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 7-9 and 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. In claim 7, line 2 there is no antecedent basis for "the end of the threaded fastener".

Art Unit: 3616

b. In claim 8, line 3 "a pair of hooks" is a double inclusion of the plurality of hooks now recited in claim 1 from which claim 7 ultimately depends (i.e., this should be "a pair of said hooks").

c. In claim 9, line 2, similarly "a pair of hooks" should be "a pair of said hooks".

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Niwa et al US006328513B1 (newly cited).

As the preamble of claim 10 recites the invention as "a spacer" "for attaching an airbag...", the limitations throughout the claim regarding how the spacer relates to the airbag and vehicle body are functional statements of intended use, failing to positively define patentably distinguishing structure. As long the structure of the spacer is capable of performing the recited tasks, the structural limitations of the claim are met.

Niwa et al disclose a spacer in Figure 1 including a cylindrical portion 110a and a plurality of catches or hooks 13 as broadly recited arranged about an outer circumference of the cylindrical portion, with the cylindrical portion extending between the hooks in the longitudinal direction of the spacer. Again, the recitations relating the

the vehicle structure, airbag, fastener, etc. in the claim are functional statements of intended use.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-3, 5, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent 10-203288 (cited by applicant) in view of Niwa et al.

Japanese '288 discloses an airbag 1 and structure for attaching the airbag to a vehicle body 20 comprising a sheet (notoriously made of fabric or woven material when it is an airbag) with a hole best seen in Figures 8 and 10 attached to vehicle body 20 by inserting threaded fastener 16 through the hole and screwing the fastener into a hole formed in the vehicle body (i.e., into the nut shown in Figure 10). Japanese '288 further teaches a spacer 19 in the hole having a cylindrical portion with a diameter smaller than the hole in the fabric sheet. The fastener is inserted into the cylindrical portion with an end of the spacer in Figure 10 in contact with the body 20. The spacer can rotate within the hole. Niwa et al discloses in Figures 1-4B that spacer 11a, 12a has a plurality of catches or hooks 13 about an outer circumference of cylindrical portion 110a, wherein the cylindrical portion extends between the hooks in a longitudinal direction of the spacer. The spacer has flanges 14, 14 integrally formed at either end. It would have

been obvious to one of ordinary skill in the art at the time the invention was made to modify Japanese '288 to include hooks on the outer circumference of the cylindrical portion and flanges integrally formed on both ends of the spacer as taught by Niwa et al in order to protect the sheet from abrasion on the screw and body while allowing the sheet to be attached between the flanges. In the combination Niwa et al's spacer has connected rear and front bodies 11a, 12a (claims 1-3). The airbag is a side air bag intended to protect an occupant's head as functionally recited in claim 5, and the spacer and fastener in the combination form separate pieces (claim 11).

12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent 0899171 (of record, cited by applicant) in view of Niwa et al.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify European '171, who discloses a fabric sheet 16 at paragraph [0029] with a hole in Figure 8 and attached to vehicle body 33 by threaded fastener 39, to include a spacer with hooks about the outer circumference of a cylindrical portion, the spacer having flanged front and rear bodies and a diameter smaller than the hole it passes through as taught by Niwa et al in order to protect the sheet from abrading against the screw and vehicle body while allowing the fabric material to be placed between the flanges that protect it. European '171, the primary reference, discloses a tacking member 50 on flange 40, and this would teach the skilled artisan to place a tacking member on the flange in the combination allowing the spacer to turn within the hole prior to tacking the spacer to the vehicle body.

Allowable Subject Matter

13. Claims 6-7 are so indefinite that no determination regarding patentability could be made.

14. Claims 8-9 and 12-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is 571/272-6668. The examiner can normally be reached on Monday-Thursday, 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571/272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric Culbreth
Primary Examiner
Art Unit 3616



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